



## Office of the Governor

ARNOLD SCHWARZENEGGER  
THE PEOPLE'S GOVERNOR**EXECUTIVE ORDER S-18-06**

10/03/2006

**WHEREAS** my February 24, 2006 proclamation and March 6, 2006 Executive Order S-01-06 directed that the California Department of Water Resources continue to identify additional levee sites that may require expedited repairs to prevent the loss of human life and significant property damage that would result from a catastrophic levee failure; and

**WHEREAS** recent investigations by the California Department of Water Resources and U. S. Army Corps of Engineers have identified numerous additional levee sites throughout the State which are in a substantially degraded condition, thereby creating conditions of extreme peril to the safety of persons and property, and which are in need of immediate repair; and

**WHEREAS** a catastrophic failure at one of the newly identified degraded levee sites would have the same or similar disastrous results as those identified in my February 24, 2006 proclamation, including possible loss of human life, significant property damage, negative environmental impacts and threats to the drinking water for 24 million citizens in California; and

**WHEREAS** conditions of extreme peril to the safety of persons and property continue to exist along California's levees and other flood control systems; and

**WHEREAS** the resources to address the dangers posed exceed the capabilities, personnel, equipment and facilities of any one county; and

**WHEREAS** on May 19, 2006, I signed into law as urgency legislation Assembly Bill (AB) 142 (Chapter 34, Statutes of 2006), which appropriated \$500 million from the General Fund to the California Department of Water Resources for levee evaluation and repair and related work, and flood control system improvements (collectively, "Levee Repairs and Flood Control System Improvements"); and

**WHEREAS** California Department of Water Resources, using AB142 funds, has already commenced and is on schedule to complete repairs to 29 critical erosion sites before the next flood season and is currently working, in cooperation with the U. S. Army Corps of Engineers and appropriate local governmental entities, to complete needed Levee Repairs and Flood Control Improvements as rapidly as possible; and

**WHEREAS** many local government entities, which have the legal obligation to operate and maintain their levees and flood control projects, lack the necessary resources to carry out urgently needed evaluations and repairs without State assistance; and

**WHEREAS** the U. S. Army Corps of Engineers is attempting to secure federal funding for rehabilitation of many of the additional identified levee sites under Public Law 84-99, but may be unable to do so before the start of the next flood season; and

**WHEREAS** a catastrophic failure of California's levees and/or other flood control systems would have disastrous consequences to the people of California, regardless of whether the failure occurs at a location under the jurisdiction or control of a federal, State or local governmental entity and

**WHEREAS** the California Department of Water Resources must be able to use expeditiously the funds appropriated under AB 142 to (a) ensure that all necessary actions are taken to alleviate the emergency conditions posed by substantially degraded conditions throughout California's levees and other flood control systems, (b) establish a coordinated statewide effort involving local, State, and federal agencies to complete the necessary Levee Repairs and Flood Control System Improvements effectively and efficiently, and (c) improve emergency response capabilities.

**NOW, THEREFORE, I, ARNOLD SCHWARZENEGGER**, Governor of the State of California, by virtue of the power vested in me by the Constitution and statutes of the State of California do hereby issue this Order to become effective immediately.

1. The California Department of Water Resources shall continue to coordinate efforts that are needed to alleviate the conditions of emergency, as expressed in the Proclamation of Emergency dated February 24, 2006, and shall coordinate a statewide effort to complete the necessary Levee Repairs and Flood Control System Improvements as effectively and efficiently as possible. The Department shall also prioritize projects to ensure adequate funds appropriated under AB 142 continue to be available for the completion of the repair work at the 29 permitted critical erosion sites.
2. Pursuant to the authority derived from the Proclamation of Emergency dated February 24, 2006, the California Department of Water Resources is authorized to use funds appropriated under AB 142 for any of the following:
  - (a) To undertake evaluation, planning, design, construction and related activities, including ecosystem restoration, that are determined by the California Department of Water Resources to be urgently needed to stabilize, repair, restore, improve or replace existing State-federal Project levees and other State-federal flood control systems;
  - (b) To advance funds to the federal government to complete evaluations, planning, design, construction and related activities, including ecosystem restoration, that are determined by the California Department of Water Resources to be urgently needed for State-federal Project levees and other flood control systems, or for the California Department of Water Resources to complete in advance of the federal government such evaluations, planning, design, construction and related activities, including ecosystem restoration, that are determined by the California Department of Water Resources to be urgently needed for State-federal Project levees and other State-federal flood control systems;
  - (c) To undertake evaluation, planning, design, construction and related activities, including ecosystem restoration, that are determined by the California Department of Water Resource

to be urgently needed to stabilize, repair, restore, improve, replace or construct State-federal Project levees eligible for rehabilitation under Public Law 84-99 that are critically damaged and in need of immediate repair;

(d) To conduct urgently needed evaluations of State-federal levees and other State-federal flood control facilities protecting urban areas, including the performance of floodplain mapping studies;

(e) To initiate planning, design and feasibility studies for new State-federal flood control system projects that are urgently needed for communities which are at high risk of flooding and to conduct necessary evaluations of levee and flood conditions, including performing floodplain mapping studies;

(f) To require cost-sharing by local governmental entities benefiting from levee evaluations, planning, design, construction, and related activities, including ecosystem restoration, completed for State-federal Project levees;

(g) To take such other actions as are necessary to improve emergency response capabilities at degraded levee sites requiring critical Levee Repairs and Flood Control System Improvements;

(h) To make loans or grants to local governmental entities to undertake evaluation, planning, design, construction and related activities, including ecosystem restoration, that are urgently needed to stabilize, repair, restore, improve, replace or construct levees and other flood control systems that are not part of the State-federal flood control projects, but which have been critically damaged or degraded, and to require cost-sharing by local governmental entities benefiting from such activities and projects; and

(i) For all Levee Repairs and Flood Control System Improvements, to seek reimbursement or credit from the federal government and local agencies to the extent that it does not prohibit timely completion of the repairs, upgrades, evaluations.

3. The California Reclamation Board is authorized to enter into agreements with the federal government, state agencies, and local agencies to accommodate this work, as requested by the California Department of Water Resources. The Director of the California Department of Water Resources may adopt guidelines governing issues such as loans and grants to local governmental entities and requirements for cost sharing. In exercising his power to adopt guidelines pursuant to the authority derived from the Proclamation of Emergency dated February 24, 2006, the Director shall not be required to comply with the provisions of the Administrative Procedure Act.

4. The California Department of Water Resources is further directed to ensure that the actions it takes pursuant to this Executive Order with regard to local governmental entities are conditioned on ensuring that the legal responsibilities for operations and maintenance currently vested in such local governmental entities remain with such entities and are not altered by the State's actions.

5. All State agencies with responsibilities, regulatory authority or expertise related to Levee Repairs and Flood Control System Improvements shall cooperate fully and act expeditiously in coordination with the California Department of Water Resources to facilitate the completion of all such Levee Repairs and Flood Control System Improvements.

6. The California Department of Water Resources shall contract for the services of necessary qualified personnel and for the supplies, materials, equipment and services necessary to perform the Levee Repairs and Flood Control System Improvements, and to evaluate the levees and other flood control systems in order to identify and repair additional sites that may require expedited repairs to prevent loss of human life and significant property

damage during a catastrophic failure of such levees and other flood control systems. The California Department of Water Resources is authorized to enter into such contracts as expeditiously as possible, pursuant to the authority derived from the Proclamation of Emergency dated February 24, 2006, and for this purpose shall be exempt from the provisions of the Government Code and the Public Contract Code applicable to state contracts, including but not limited to, advertising and competitive bidding requirements, to the extent that they would prevent, hinder or delay the prompt mitigation of the effects of the emergency.

The activities herein are authorized to be carried out pursuant to the Emergency Services Act, Government Code sections 8550 et seq.

**I FURTHER DIRECT** that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given to this Order.



**IN WITNESS WHEREOF** I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 3rd day of October 2006